

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

November 10, 2004  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley, Butler, Cowan, Densberger, DiMarzio, Glines, Lussier, Lyons, Phillips, and Varotsis

**Members absent:** Councilors Barrett, Dupee, Frost, Ingham and Patenaude

Chairman Bridges opened the meeting at 9:00 a.m.

### 1. Approval of Minutes of October 13, 2004 Meeting

***A motion was made by Councilor Varotsis to accept the minutes of the October 13, 2004 meeting as presented. The motion was seconded by Councilor Butler and unanimously voted.***

### 2. Approval of State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of six state aid grants as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated October 29, 2004.

***Councilor Varotsis moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and it was unanimously voted.***

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Manchester	C-681	Pond Drive Sewer & Pumping Station	\$115,190
Littleton	C-682	Sewer System Evaluation Study	9,998
Manchester	C-683	Cohas Brook Interceptor, Ph I, Contract 3	349,044
Lisbon	C-684	Pump Station Grinders	19,620
WRBP*	C-685	State School Pump Station Grinder	3,688
WRBP*	C-686	Design of Dewatering Improvements	100,768

\*Winnepesaukee River Basin Program

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

### 3. **Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**  
A stay remains in effect on this appeal. A related appeal currently before the Wetlands Council was denied on October 26, 2004. Once a written Decision & Order is issued by the Wetlands Council, the appellant will have 20 days to file for reconsideration with the Wetlands Council.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**  
A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**  
A motion to stay action on this appeal expires on November 13, 2004. On November 8, 2004 Attorney Blenkinsop, who represents DES, requested that a pre-hearing conference be scheduled as the state and appellant have agreed that they have reached an impasse in settlement negotiations. Vice Chairman DiMarzio will schedule and preside at a pre-hearing conference.
- **Docket No. 04-14 WC - Appeal of Mark and Marianne Bonaiuto**  
On October 14, 2004 a written Decision & Order to dismiss this appeal was issued. The appellants have until November 15, 2004 to file a request for reconsideration with the Water Council.
- **Docket No. 04-15 WC - Appeal of Town of Nottingham Selectmen**  
On October 13, 2004 the Water Council voted to dismiss this appeal due to lack of jurisdiction. Mr. Sclafani commented that a written Decision & Order has not been issued. The appellant will have 30 days from the date a written Decision & Order is issued to file a request for reconsideration. The appellant, however, filed a Motion for Reconsideration on November 5, 2004 and on November 9, 2004 DES filed an Objection to Appellant's Motion for Reconsideration.  
  
*A motion was made by Councilor Densberger to table appellant's Motion for Reconsideration until a written Decision & Order is issued. Councilor Butler seconded the motion and it was unanimously voted.*
- **Docket No. 04-17 WC - Appeal of Save Our Groundwater "SOG"**  
On October 13, 2004, the Water Council voted to dismiss this appeal due to lack of jurisdiction. A written Decision & Order has not been issued.

- **Docket No. 04-18 WC - Appeal of Thaddeus Dymon**

Attorney K. Allen Brooks filed an appearance on behalf of DES on October 29, 2004. A pre-hearing conference is scheduled for Monday, November 15, 2004. (See Note below).

- **Docket No. 04-19 WC - Appeal of Town of Newport**

Attorney K. Allen Brooks filed an appearance on behalf of DES on October 29, 2004. A pre-hearing conference is scheduled for Monday, November 15, 2004.

**Note:** Mr. Sclafani explained that Docket Nos. 04-18 and 04-19 will be tracked together. Both appeals concern the September 10, 2004 DES decision regarding waiver of portions of Env-Ws 386.56 on Gilman Pond in Unity, NH.

- **Docket No. 04-22 WC - Appeal of Robert Chapman and Chapman Scrap Metal Recycling**

This is an appeal of a denial of an application for a shoreland variance dated September 28, 2004. The appeal was received on October 28, 2004. Mr. Sclafani explained that identical appeals also were filed with the Waste Management Council and the Wetlands Council. Mr. Sclafani has requested an opinion from Council's attorney for an opinion on which council should hear the appeal. Mr. Sclafani commented that it is his understanding that the shoreland waiver is the only matter currently at issue.

***A motion was made by Councilor Cowan to accept this appeal. Councilor Butler seconded the motion and it was unanimously voted.***

Vice Chairman DiMarzio will schedule and preside at a pre-hearing conference.

**4. Other Business**

Councilor Butler asked Mr. Stewart for an update on the request by the Towns of Allentown and Hooksett for increased flows to the Merrimack River. Mr. Stewart explained that analyses by PSNH had detected decreasing dissolved oxygen ("DO") levels in the Merrimack River. With the increased flows being requested by communities, more stringent limits on discharges may be required to maintain organic loading at or below current levels. In the long term, the Corps of Engineers is doing a study on loading on the lower Merrimack River from Manchester down to the ocean with a focus on CSOs, which Mr. Stewart expects will be available in about a year.

**5. Next Meeting**

The next meeting will be held on January 12, 2005, unless issues arise which would necessitate a meeting in December 2004.

**6. Adjournment**

***A motion was made by Councilor Lussier and seconded by Councilor Butler to adjourn. It was unanimously voted.***

The meeting adjourned at approximately 9:45 a.m.